

REMARKS

Upon amendment, Claims 1-13, 15 and 19 are pending in this application. Claims 14, 16, 17 and 18 have been canceled herein without prejudice. Claims 1-8 have been amended to clarify the claimed subject matter and to correct the claim dependencies. Claim 15 has been amended to recite a pharmaceutical composition as suggested by the Examiner. Claim 19 is new and is directed to a method for the treatment or prophylaxis of impairments of perception, concentration, learning and/or memory comprising administering to a human or animal at least one compound according to any of Claims 1 to 11. Support for this claim can be found throughout the specification and claims as originally filed. No new matter has been added.

Applicants respectfully reserve the right to pursue any non-elected, canceled or otherwise unclaimed subject matter in one or more continuation, continuation-in-part, or divisional applications.

Reconsideration and withdrawal of the objections to and the rejections of this application in view of the amendments and remarks herewith, is respectfully requested, as the application is in condition for allowance.

Objections to the Claims

In the Office Action, the Examiner has raised a number of potential claim objections in advance of the first action on the merits.

Specifically, the Examiner notes that Claims 3-18 have improper multiple claim dependencies; and that Claims 16-17 recited “use” claims which would be rejected and withdrawn in the first action on the merits.

To that end, Applicants have amended the claims as shown herein to correct the claim dependencies for claims 3-13 and 15. Similarly, Applicants have presented new claim 19 directed to a method for the treatment or prophylaxis of impairments of perception, concentration, learning and/or memory comprising administering to a human or animal at least one compound according to any of Claims 1 to 11.

Applicants believe all of the instantly pending claims are in proper form for Examination and allowance.

Statement of Substance of Interview

Applicant wishes to thank Examiner Mabry for the courteous and informative telephone interview held upon the Examiner's initiation on August 25, 2009 with Applicants' Attorney, William F. Gray. During the interview, the art cited in the Restriction Requirement was discussed.

In his interview summary dated August 26, 2009, the Examiner states that the Applicants' Attorney "told the Examiner that Applicant did not send a response because Applicant intends to abandon [the] application..." This is incorrect. Applicants' Attorney informed the Examiner that no Office Action was received and that the case was to be revived upon receipt of the Notice of Abandonment. To that end, Applicants have submitted herewith a Petition to Revive under 37 CFR 1.137(b) for unintentional abandonment of the instant application and a Declaration Pursuant to 37 C.F.R. 1.132 from William F. Gray.

Restriction Requirement

The Office Action requires election of a single group selected from the following groups:

Group I, claims 1-11 and 14-15, drawn to compounds and pharmaceutical compositions of Formula I, wherein A=S, O and ring B = Benzo;

Group II, claims 1-11 and 14-15 are drawn to compounds and pharmaceutical compositions of Formula I, wherein A=S, O and ring B = pyrido;

Group III, claims 12-13 are drawn to a process for the preparation of the compounds of Formula I limited to the scope of one of Groups 1 or II;

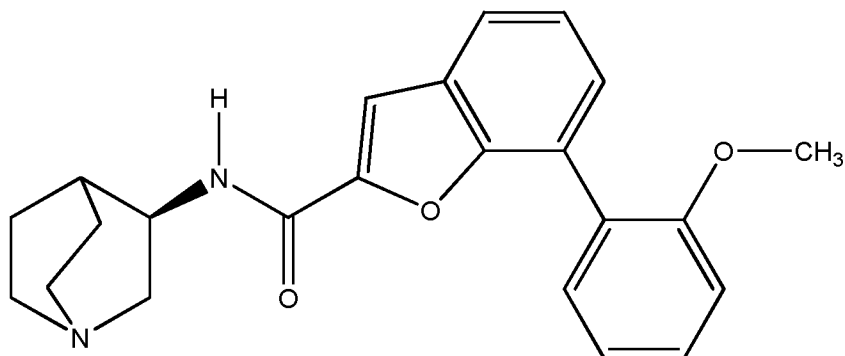
Group IV, Claims 16-17 are drawn to a method of treating or preventing perception, concentration, learning and/or memory limited to the scope of Groups 1 or II.

Applicants elect Group I, with traverse.

Applicants respectfully request full examination of the compounds and compositions of Group I and the process of Group III and the methods of treatment of Group IV. A search for the compounds of Group I would necessarily result in discovery of any methods to make such compounds or utilizing such compounds. Indeed, the search and examination of the compounds, compositions and their related methods of use would likely be co-extensive and, in any event, would involve such interrelated art that the search and examination of the both groups can be made without undue burden on the Examiner. In the alternative, Applicants respectfully request rejoinder of the compounds and compositions of Group I and the process of Group III and the methods of treatment of Group IV.

Indeed, the search and examination of the compounds and their related methods of use would likely be co-extensive and, in any event, would involve such interrelated art that the search and examination of all groups can be made without undue burden on the Examiner. In the alternative, Applicants respectfully request rejoinder of the compounds of Group II and the methods of treatment claims of Group I.

The Examiner has also required the election of a single disclosed species. Applicants respectfully elect N-[(3R)-1-Azabicyclo[2.2.2]oct-3-yl]-7-[2-(methoxy)phenyl]-1-benzofuran-2-carboxamide (Example 130, Page 170-171):



Claims 1-5, 8-11, 15 and 19 each read on the elected species. (R¹ is 1-azabicyclo[2.2.2]oct-3-yl, R² is hydrogen, R³ is hydrogen, A is oxygen, the B ring is benzo, E is arylene and R⁴ is alkoxy).

The afore-mentioned election is being made solely to comply with, and be fully-responsive to, the restriction requirement set forth in the Office Action. Applicants respectfully reserve the right to pursue any non-elected or otherwise unclaimed subject matter in one or more continuation, continuation-in-part, or divisional applications.

CONCLUSION

In view of the foregoing remarks presented herein, reconsideration and withdrawal of all election requirements and allowance of the instant application with all pending claims are respectfully solicited. If a telephone conversation with Applicants' attorney(s) would help to expedite the prosecution of the above-identified application, the Examiner is urged to call the undersigned.

Applicants believe that no additional fees are required for consideration and entry of this paper. However, Applicants authorize the Director to charge any required fee or credit any overpayment to Deposit Account No. 04-1105, Reference No. 84804(303989).

Respectfully submitted,

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